



JON PIETEN VANBRECKEN

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5:23-CR-00091 / 5:25-cv-246

UNITED STATES

MOTION TO CORRECT SENTENCE

I, JON VANBRECKEN, #618-20-510 AM FILING PRO SE A 2255 MOTION TO HAVE MY SENTENCE CORRECTED, I BELIEVE THESE ARGUMENTS AND FACTS WILL PERSUADE YOU TO CORRECT MY UNJUST SENTENCE. MY LAWYER TODD HOUK FAILED IN MANY WAYS, HE DID NOT APPEAL MY SENTENCE, REFUSING TO ANSWER MY SEVERAL ATTEMPTS TO CONTACT HIM FOR THIS. HE FAILED TO CHALLENGE MY UPDATED PSR AND SUBSEQUENT ENHANCEMENTS. IN ELBOGHADY-V-US 2024 VS APP LEXIS 2281 (4TH CIRCUIT APPEAL 2024) HE WON HIS ARGUMENT ON THE SAME (8 POINT) ENHANCEMENT. THESE FAILINGS CAUSED A 6TH AMMENDMENT VIOLATION LEADING TO VIOLATIONS OF THE 4TH, 5TH, AND 8TH AMMENDMENTS.

ARGUMENT #1

INEFFECTIVE ASSISTANCE USES THE STICKLAND-V-WASHINGTON 80. L. RJ 2D 674 (1984) STANDARD. THE TWO PRONGS ARE PREJUDICE AND ERROR IN DUTY. THESE ARE HIGH BARS TO REACH

PREJUDICE IS FROM A LACK OF ACTION THAT KNOWINGLY CAUSED ME HARM, AN ACTION IF TAKEN WOULD HAVE COST NOTHING EXCEPT THE COMPLETION OF THE JOB MY LAWYER WAS APPOINTED TO DO. I WILL EXPLAIN FURTHER BELOW

ERROR IS FROM NOT KNOWING RELEVANT CASE LAW AND HOW TO APPLY IT TO A CASE. THIS IS COMMON BUT NORMALLY A FUTILE ARGUMENT, THIS TIME IT WAS TO MY DETRIMENT

FAILING TO CHALLENGE AN ENHANCEMENT IS NOT AN ERROR NORMALLY, HOWEVER THIS FAILURE WAS CREATED AS THE RELEVANT CASE, ELBOGHADADY, WAS AS NEARLY IDENTICAL AS POSSIBLE IN OUR SYSTEM AS THAT CASE INCLUDED THE SAME UNDERCOVER OFFICER, FAKE VICTIMS, PROSECUTOR, AND COURTROOM. THAT CASE SUCCESSFULLY CHALLENGED THE 8 LEVEL ENHANCEMENT OF 2G1.3(b)(6), AS MINE SHOULD BE AS WELL. THIS FAILURE TO APPEAL OR ARGUE EVEN AFTER INSTRUCTED TO DO SO IS A VIOLATION OF MY 6TH AMMENDMENT RIGHT TO COUNSEL.

ARGUMENT 2

AS MENTIONED, ELBOGHADADY'S REVIEW USING US-V-PROVANCE 944 F.3d 213(4TH CIR 2011) WOULD SHOW THAT 2G1.3(b)(6) SHOULD BE REMOVED FROM MY ENHANCEMENTS AS WELL. I PLED TO A SINGLE COUNT OF 2423 (b) WITH

A VICTIM AGED 13, YET I WAS PUNISHED FOR TWO VICTIMS, WHO DID NOT EVEN EXIST.

ARGUMENT #3

MY SENTENCE OF 168 MONTHS IS GREATER THAN NEEDED. MY ACTIONS OF HAVING AN OBSCINE CONVERSATION AT A BAR WITH AN ADULT WOMAN IS OUTSIDE THE HEARTLAND OF A 2423(b) CHARGE. NOR DID I POSSESS ANY CHILD PORNOGRAPHY, GIFTS, OR SEX RELATED ITEMS. THIS IS UNLIKE THE VAST MAJORITY OF INDIVIDUALS ARRESTED IN THIS SAME OPERATION. ELBOGHADAY ONLY RECEIVED 120 MONTHS FOR THIS OFFENSE BEFORE HAVING THAT SENTENCE REDUCED FURTHER. THIS IS CLEARLY A DISPARITY OF SENTENCE IN VIOLATION OF 3553(a)(6)

I BELIEVE ANY OF THESE ARGUMENTS ALONE ENOUGH TO VACATE MY SENTENCE AND REQUEST THAT YOU DO SO, IN SUCH TO REMOVE THE 261.3(b)(5) ENHANCEMENT. I THANK THE COURT FOR ITS TIME AND CONSIDERATION.

VAN BREEMEN, JON

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